

description of the rejection in the discrepancy block of the manifest, and the name, address, phone number, and Identification Number for the alternate facility or generator to whom the shipment must be delivered. The transporter must retain a copy of the manifest in accordance with § 761.214, and give a copy of the manifest containing this information to the rejecting designated facility. If the original manifest is not used, then the transporter must obtain a new manifest for the shipment and comply with 40 CFR 761.215(e)(1) through (6).

(iii) No provision of this section shall be construed to affect or limit the applicability of any requirement applicable to transporters of PCB waste under regulations issued by the Department of Transportation (DOT) and set forth at 49 CFR Part 171.

[77 FR 54832, Sept. 6, 2012]

§ 761.213 Use of manifest—Commercial storage and disposal facility requirements.

(a)(1) If a commercial storage or disposal facility receives PCB waste accompanied by a manifest, the owner, operator or his/her agent must sign and date the manifest as indicated in paragraph (a)(2) of this section to certify that the PCB waste covered by the manifest was received, that the PCB waste was received except as noted in the discrepancy space of the manifest, or that the PCB waste was rejected as noted in the manifest discrepancy space.

(2) If a commercial storage or disposal facility receives an off-site shipment of PCB waste accompanied by a manifest, the owner or operator, or his agent, shall:

- (i) Sign and date, by hand, each copy of the manifest;
- (ii) Note any discrepancies (as defined in § 761.215(a)) on each copy of the manifest;
- (iii) Immediately give the transporter at least one copy of the manifest;
- (iv) Within 30 days of delivery, send a copy of the manifest to the generator; and
- (v) Retain at the facility a copy of each manifest for at least three years from the date of delivery.

(b) If a commercial storage or disposal facility receives, from a rail or water (bulk shipment) transporter, PCB waste which is accompanied by a shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator's certification, and signatures), the owner or operator, or his agent, must:

(1) Sign and date each copy of the manifest or shipping paper (if the manifest has not been received) to certify that the PCB waste covered by the manifest or shipping paper was received;

(2) Note any significant discrepancies (as defined in § 761.215(a)) in the manifest or shipping paper (if the manifest has not been received) on each copy of the manifest or shipping paper.

NOTE TO PARAGRAPH (b)(2): The Agency does not intend that the owner or operator of a facility whose procedures include waste analysis must perform that analysis before signing the shipping paper and giving it to the transporter. Section 761.215(a), however, requires reporting an unreconciled discrepancy discovered during later analysis.

(3) Immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest or shipping paper (if the manifest has not been received);

(4) Within 30 days after the delivery, send a copy of the signed and dated manifest or a signed and dated copy of the shipping paper (if the manifest has not been received within 30 days after delivery) to the generator; and

NOTE TO PARAGRAPH (b)(4): Section 761.210(c) requires the generator to send three copies of the manifest to the facility when PCB waste is sent by rail or water (bulk shipment).]

(5) Retain at the facility a copy of the manifest and shipping paper (if signed in lieu of the manifest at the time of delivery) for at least three years from the date of delivery.

(c) Whenever an off-site shipment of PCB waste is initiated from a commercial storage or disposal facility, the owner or operator of the commercial storage or disposal facility shall comply with the manifest requirements

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that apply to generators of PCB waste (§ 761.207).

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§ 761.214 Retention of manifest records.

(a)(1) A generator must keep a copy of each manifest signed in accordance with § 761.210(a) for three years or until he receives a signed copy from the designated facility which received the PCB waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter. A generator subject to annual document requirements under § 761.180 shall retain copies of each manifest for the period required by § 761.180(a).

(2) A transporter of PCB waste must keep a copy of the manifest signed by the generator, himself, and the next designated transporter or the owner or operator of the designated facility for a period of three years from the date the PCB waste was accepted by the initial transporter.

(b) For shipments delivered to the designated facility by water (bulk shipment), each water (bulk shipment) transporter must retain a copy of the shipping paper containing all the information required in § 761.211(e)(2) for a period of three years from the date the PCB waste was accepted by the initial transporter.

(c) For shipments of PCB waste by rail within the United States:

(1) The initial rail transporter must keep a copy of the manifest and shipping paper with all the information required in § 761.211(f)(2) for a period of three years from the date the PCB waste was accepted by the initial transporter; and

(2) The final rail transporter must keep a copy of the signed manifest (or the shipping paper if signed by the designated facility in lieu of the manifest) for a period of three years from the date the PCB waste was accepted by the initial transporter.

NOTE TO PARAGRAPH (c): Intermediate rail transporters are not required to keep records pursuant to these regulations.

(d) A generator must keep a copy of each Exception Report for a period of

at least three years from the due date of the report.

(e) The periods of retention referred to in this Section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Administrator.

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§ 761.215 Manifest discrepancies.

(a) Manifest discrepancies are:

(1) Significant differences (as defined by paragraph (b) of this section) between the quantity or type of PCB waste designated on the manifest or shipping paper, and the quantity and type of PCB waste a facility actually receives; or

(2) Rejected wastes, which may be a full or partial shipment of PCB waste that the designated facility cannot accept.

(b) Significant differences in quantity are: For bulk waste, variations greater than 10 percent in weight or variations greater than 10 percent in weight of PCB waste in containers; for batch waste, any variation in piece count, such as a discrepancy of one PCB Transformer or PCB Container or PCB Article Container in a truckload. Significant differences in type are obvious differences which can be discovered by inspection or waste analysis, such as the substitution of solids for liquids or the substitution of high concentration PCBs (above 500 ppm) with lower concentration materials.

(c) Upon discovering a significant difference in quantity or type, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within 15 days after receiving the waste, the owner or operator must immediately submit to the Regional Administrator a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

(d)(1) Upon rejecting the PCB waste, the facility must consult with the generator prior to forwarding the waste to another facility that can manage the waste. If it is impossible to locate an alternative facility that can receive the waste, the facility may return the